IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.
CRIMINAL APPICATION No.1094 of 2007

JAYESH DHIRAJLAL BHANUSHALI ..Applicant.

Vs.

THE STATE OF MAHARASHTRA ..Respondent.

Mr Jehangir A. Khan, Advocate for the Applicant.

Mr K. V. Saste, A.P.P. for the Respondent No.1-State.

Mr S. T. Markandeya, Advocate for the complainant.

CORAM: V.C. DAGA, J.
DATED: 22nd August, 2007.

P.C.:-

1. Heard learned Advocate for the applicant, learned A.P.P.for the State and learned Advocate for the original complainant.

2. Perused application and the material available on record.

3. By this application under Section 438 of the Cr.P.C.,seeking anticipatory bail in C.R.No.74 of 2007 registered with Mulund Police Station for the offence punishable under Sections 498-A, 406,420 read with Section 34 the Indian Penal Code.

4. This is a matrimonial dispute between husband and wife. The wife is alleging that her husband has committed offence under Sections 498-A, 406, read with Section 34 of the I.P.C. and, subsequently, Section 420 of the I.P.C. came to be added.

5. During the course of hearing, the learned counsel appearing for the applicant voluntarily submits that the applicant is prepared to pay Rs. 5,000/-per month towards maintenance to his daughter, who is in the custody of the wife-complainant. He further submits that the allegations made in the F.I.R. about the "Stridhan" are absolutely false and incorrect.

6. Learned counsel for the applicant has pressed into service the contents in para 7 of the F.I.R. to demonstrate that as per the FIR of which wife is a author, the "Stridhan", if any, was in the custody of the parents of the applicant. He further submits that during the search of his father’s house by police nothing was found.

7. In the above circumstances, he submits that allegations about "Stridhan" made in the F.I.R. are concocted and false. However,he without prejudice to his contentions, on the instructions of the applicant-accused, submits that the applicant is ready and willing to deposit Rs.1,50,000/- with the I.O. within a period of six weeks from today. All these statements made by the learned counsel for the applicant with regard to the maintenance to be paid to his daughter @ Rs. 5,000/- and deposit in the sum of Rs. 1,50,000/- with the Investigating Officer are taken on record.

8. So far as opening of the bank account by the husband in the name of the firm styling himself as proprietor appears to be during the period when both were staying together as husband and wife. The withdrawals made from the bank from time to time were also during the period during which both of them were staying together. The learned counsel for the applicant tried to rely on the signatures of the complainant-wife on the reverse of the cheques to contend that withdrawals were made

by the complainant herself. All this prima facie show the consent of wife. Any how it would be a matter of evidence. However, at this stage, I do not see any useful purpose would be served by allowing custodial interrogation of the applicant accused.

9. The dispute essentially is between the husband and wife. Both of them have not raised any matrimonial dispute in family court. Still, their matrimonial tie is intact. The husband has not been allowed to enter in the house which admittedly stands in the joint name. The house seems to be in possession of the wife-complainant.

10. In the above view of the matter, I am inclined to grant bail to the applicant in the sum of Rs. 50,000/- with one or two sureties to make up the said amount,subject to the following terms and conditions:

(a) he shall report to the Investigating Officer as and when called.

(b) the applicant shall not, directly or

indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(c) the applicant shall not pressurise witnesses, the employees or drivers of the business of the complainant and that he shall co-operate with the Investigating agency.

(d) The applicant shall not take possession of any vehicles which are in possession of the complainant-wife, nor he shall make any transaction in the name of his wife.

11. The applicant is put on notice that on a report by the State in violating any of the conditions by him, mentioned herein, shall result in cancellation of this bail order.

12. This order of anticipatory bail shall remain in force till the filing of the charge sheet. It would be open for the applicant to apply for regular bail before the regular Court.

13. The application is allowed in the above terms.

(V.C. DAGA,J.)